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(Original Signature of Member)

108TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. MARKEY introduced the following bill; which was referred to the
Committee on _____

A BILL

To establish a demonstration project to clarify the definition
of homebound for purposes of determining eligibility for
home health services under the medicare program, and
to conditionally authorize that clarification.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “David Jayne Home-
5 bound Reform Act of 2003”.



1 **SEC. 2. DEMONSTRATION PROJECT TO CLARIFY THE DEFINITION OF HOMEBOUND.**
2

3 (a) DEMONSTRATION PROJECT.—Not later than Jan-
4 uary 1, 2004, the Secretary shall conduct a demonstration
5 project under which medicare beneficiaries with chronic
6 conditions described in subsection (b) are deemed to be
7 homebound for purposes of receiving home health services
8 under the medicare program.

9 (b) MEDICARE BENEFICIARY DESCRIBED.—For pur-
10 poses of subsection (a), a medicare beneficiary is eligible
11 to be deemed to be homebound, without regard to the pur-
12 pose, frequency, or duration of absences from the home,
13 if the beneficiary—

14 (1) has been certified by a physician as an indi-
15 vidual who has a permanent and severe condition
16 that will not improve;

17 (2) requires the individual to receive assistance
18 from another individual with at least 3 out of the 5
19 activities of daily living for the rest of the individ-
20 ual's life;

21 (3) requires 1 or more home health services to
22 achieve a functional condition that gives the indi-
23 vidual the ability to leave home; and

24 (4) requires technological assistance or the as-
25 sistance of another person to leave the home.



1 (c) DATA.—The Secretary shall collect such data on
2 the demonstration project with respect to the provision of
3 home health services to medicare beneficiaries that relates
4 to quality of care, patient outcomes, and additional costs,
5 if any, to the medicare program.

6 (d) REPORTS TO CONGRESS.—(1) Not later than 1
7 year after the date of the implementation of the dem-
8 onstration project under this section, the Secretary shall
9 submit to Congress an initial report on the project using
10 the data collected under subsection (c).

11 (2) Not later than 1 year after the date of submittal
12 of the report under paragraph (1), the Secretary shall sub-
13 mit to Congress an additional report on the project using
14 the data collected under subsection (c).

15 (e) WAIVER AUTHORITY.—The Secretary shall waive
16 compliance with the requirements of title XVIII of the So-
17 cial Security Act (42 U.S.C. 1395 et seq.) to such extent
18 and for such period as the Secretary determines is nec-
19 essary to conduct demonstration projects.

20 (f) CONSTRUCTION.—Nothing in this section shall be
21 construed as waiving any applicable civil monetary pen-
22 alty, criminal penalty, or other remedy available to the
23 Secretary under title XI or title XVIII of the Social Secu-
24 rity Act for acts prohibited under such titles, including



1 penalties for false certifications for purposes of receipt of
2 items or services under the medicare program.

3 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated from the Federal Hospital
5 Insurance Trust Fund and the Federal Supplementary In-
6 surance Trust Fund under title XVIII of the Social Secu-
7 rity Act (42 U.S.C. 1395i, 1395t), in such proportions as
8 the Secretary determines to be appropriate, such funds as
9 are necessary for the costs of carrying out the demonstra-
10 tion project under this section.

11 (h) DEFINITIONS.—In this section:

12 (1) MEDICARE BENEFICIARY.—The term
13 “medicare beneficiary” means an individual entitled
14 to benefits under part A of this title, enrolled under
15 part B of this title, or both.

16 (2) HOME HEALTH SERVICES.—The term
17 “home health services” has the meaning given such
18 term in section 1861(m) of the Social Security Act
19 (42 U.S.C. 1395x(m)).

20 (3) ACTIVITIES OF DAILY LIVING DEFINED.—
21 The term “activities of daily living” means eating,
22 toileting, transferring, bathing, and dressing.

23 (4) SECRETARY.—The term “Secretary” means
24 the Secretary of Health and Human Services.



1 **SEC. 3. CLARIFICATION OF THE DEFINITION OF HOME-**
2 **BOUND FOR PURPOSES OF DETERMINING**
3 **ELIGIBILITY FOR HOME HEALTH SERVICES**
4 **UNDER THE MEDICARE PROGRAM.**

5 (a) CLARIFICATION.—Sections 1814(a) and 1835(a)
6 of the Social Security Act (42 U.S.C. 1395f(a); 1395n(a))
7 are each amended by adding at the end the following:
8 “Notwithstanding the preceding sentences, in the case of
9 an individual who has been certified by a physician as an
10 individual who has a permanent and severe condition that
11 will not improve and requires the individual to receive as-
12 sistance from another individual with at least 3 out of the
13 5 activities of daily living for the rest of the individual’s
14 life, who requires 1 or more home health services described
15 in section 1861(m) to achieve a functional condition that
16 gives the individual the ability to leave home, and who re-
17 quires technological assistance or the assistance of another
18 person to leave the home, the Secretary may not disqualify
19 such individual from being considered to be ‘confined to
20 his home’ based on the purpose, frequency, or duration
21 of the absences from the home. For purposes of the pre-
22 ceding sentence, the term ‘activities of daily living’ means
23 eating, toileting, transferring, bathing, and dressing.”.

24 (b) CONTINGENT EFFECTIVE DATE.—(1) The
25 amendments made by subsection (a) shall become effective
26 (if at all) in accordance with paragraph (2).



1 (2)(A) Not later than December 1, 2006, the Sec-
2 retary of Health and Human Services (in this paragraph
3 referred to as the “Secretary”) shall submit to Congress
4 a report on the results of the demonstration project estab-
5 lished under section 2 that analyzes the effect of the dem-
6 onstration project on the provision of home health services
7 under the medicare program .

8 (B) Such project shall be discontinued, and the
9 amendments made by subsection (a) shall become effec-
10 tive, on January 1, 2007, unless the Secretary includes
11 in that report a finding, on the basis of data collected
12 under section 2(c) that the clarification of the definition
13 of homebound under the demonstration project—

14 (i) adversely effects the provision of home
15 health services under the medicare program; or

16 (ii) directly causes an unreasonable increase of
17 expenditures under the medicare program for the
18 provision of such services that is directly attributable
19 to such clarification.

20 (C) If the Secretary includes in the report under sub-
21 paragraph (B) a finding referred to in subparagraph
22 (B)(ii), the Secretary shall include in such report—

23 (i) the specific data evidencing the amount of
24 the increase in expenditures that is a directly attrib-
25 utable to the clarification (expressed both in absolute



1 dollar terms and as a percentage) above expendi-
2 tures incurred for home health services under the
3 medicare program made for home health services
4 that are covered under the program without regard
5 to this Act; and

6 (ii) specific recommendations to exempt perma-
7 nently and severely disabled homebound beneficiaries
8 from restrictions on the length, frequency and pur-
9 pose of their absences from the home to qualify for
10 home health services without incurring additional
11 unreasonable costs to the medicare program.

12 (c) TECHNICAL AMENDMENTS.—(1) Sections
13 1814(a) and 1835(a) of the Social Security Act (42 U.S.C.
14 1395f(a); 1395n(a)) are each amended in the sixth sen-
15 tence by striking “leave home,” and inserting “leave home
16 and”.

17 (2) Section 1814(a) of the Social Security Act (42
18 U.S.C. 1395f(a)), as amended by subsection (a), is amend-
19 ed by moving the seventh sentence, as added by section
20 322(a)(1) of the Medicare, Medicaid, and SCHIP Benefits
21 Improvement and Protection Act of 2000 (appendix F,
22 114 Stat. 2763A–501), as enacted into law by section
23 1(a)(6) of Public Law 106–554, to the end of that section.

